

**City of Rockville Dept. Public Works Response to Public and Maryland Department of Environment (MDE) Comments on
Chapter 19, Sediment Control and Stormwater Management.
April 27, 2010**

Section I : Comments from MDE

Item #	MDE comment & page of original Rockville documents	City Staff Response
ORDINANCE DOCUMENT		
1	Revise definition of Channel Protection Volume. Pg. 2	No change – Rockville’s definition uses part of COMAR definition. Rockville believes this definition meets the Model Ordinance definition’s intent. The term ‘Design Manual’ is defined in Rockville’s definitions.
2	Definition of “Pre-Developed Conditions” conflicts with “Existing Conditions” Pg. 6	No change –Staff explained to MDE that Rockville uses existing conditions to mean the hydrologic or impervious condition on a parcel at that time, even if it’s developed. City uses this for CPv or 10/10 quantity comps where offsite areas may be modeled as existing or currently developed land use.
3	Definition of “Redevelopment Project” should conform to the model ordinance. Pg. 7	Staff agreed to change this definition to match the state’s definition, redevelopment projects are now only those land disturbing activities where 40% of the site was originally developed. Staff does not anticipate this change having a significant impact in Rockville because all redevelopment projects must conform to the same standard as development projects.
4	Definition of “Retrofitting” should mention ESD. Definition of “Runoff” should be both developed & undeveloped areas. Pg. 7	“Retrofitting” - changed – revised definition to cover SWM Systems, which includes ESD & structural BMPs. “Runoff:” changed – revised definition to delete “developed”.
5	Rockville cannot exempt projects not exempted by COMAR. Pg. 9	Changed – clarified Rockville’s intent to exempt utility permits from City oversight of Sediment Control Permits. Added language that these utility permits still are subject to City’s oversight for SWM. Also separated SWM from SC exemptions.
6	Missing language from the model ordinance concerning exemptions. Pg. 10	Changed to add Model Ord. 3.2.D, State regulated land activities. Clarified who’s exempt under Rockville’s standards.
7	Does 19-29(e) conflict with 19-35(a)? Pg. 17	Staff clarified both sections to show Rockville’s intent that projects with approved Sediment Control Construction and Stormwater Management Construction <u>plans</u> have 6 months to receive <u>permits</u> from City (so project must post bonds, record maint. easements, etc.). If permit is not issued within 6 months, plans expire.
8	Add suggested language to Sec. 19-35(e). Pg. 20	After these comments were made, MDE passed new regulations permitting grandfathering in specific circumstances. Staff drafted a grandfathering provision at Sec. 19-36.
9	Revise and clarify Secs. 19-49 and 19-50. Pg. 22-24	Staff added “or” after each bullet in Sec. 19-49(a) to clarify that any one of these items triggers SWM requirements. Rockville has historically required stormwater management for improved SFD projects creating >2000 sf impervious area since these can cause local drainage problems. Clarified Sec. 19-50 Title and text to show that this section is about extent of SWM to be provided outside the LOD. This section describes which areas associated with a project are subject to SWM control since Rockville requires not only the project’s new or replacement imperviousness to be treated, but also the adjacent right-of-way’s imperviousness and existing imperviousness outside of the limit of disturbance.

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10	Sec. 19-52 must be revised to reflect the minimum criteria in COMAR 26.17.02.06. Pg. 24	Clarified Rockville's intent to require WQv, CPv and Qp10 as the basic SWM control levels. Modified the ESD to MEP clause to explain ESD shall be used to fulfill WQv, recharge volume and CPv to MEP.
11	Sec. 19-53 should reflect the model ordinance.	Rockville holds redevelopment to the same standard as new development, which is more stringent than the options presented in the model ordinance. Rockville, did decide to offer full credit for impervious reductions of 50% or greater. Short of that, all redevelopment projects will implement ESD to the MEP.
12	Redevelopment requirements in Sec. 19-53(b)-(c) for existing BMPs should only be allowed after ESD to MEP. Pg. 25	No change – after phone conversation with MDE on 3/5/10, City staff understood that ESD to MEP is NOT required for redevelopment projects where existing BMPs meet (or can be retrofit to meet) current standards of WQv – see p. 5.118, Sec. 5.5.3, last paragraph in Design Manual. The existing BMP may treat either existing impervious or additional areas of impervious on the redevelopment project.
13	Only MDE can approve SWM practices. Pg. 25	Changed to reflect MDE's wording
14	Include ESD planning techniques in Sec. 19-55. Pg. 26	Changed – moved original Sec. 19-55 from ordinance and combined with Regulations Article II, Div. 3.G. Requested section on ESD Planning Techniques was added to Regulations Art. II, Div. 3.F.
15	Edit 19-61 to be clear that no alternatives are allowed until the MEP standard is met. Pg. 26	Clarified language to reinforce that ESD must be implemented to the MEP before alternatives are allowed.
16	MDE will not allow a blanket statement on streamlined approval process. Pg. 28	Rockville will only be allowing combined pre-application/development stormwater concepts for projects that do not have a pre-application meeting in the City's development review process. The combined submission is required at the earliest stage of planning review and must contain all the elements of the separate reviews.
17	No approval of fee in lieu at the pre-application phase will be allowed. Pg. 28	Deleted the offending language. City will not approve fee in lieu at pre-application phase.
18	Clarify public vs private stormdrain system in Sec. 19-68. Pg. 30	Changed to clarify intent.
REGULATIONS DOCUMENT		
19	Must incorporate the design manual. Pg. 1	Changed to add reference.
20	Must refine wording discussing simplified review process. Pg. 2	Changed – modified wording slightly to indicate the Dept may combine the Pre-App SWM Concept and the Devel. SWM Concept stages for projects that do not have a Pre-Application Meeting stage. The single SWM Concept must still demonstrate ESD to MEP.

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21	Pre-application review cannot consider SWM alternatives or fee in lieu.	Staff revised wording to emphasize ESD supporting documentation, but kept provisions for other SWM practices. COMAR 26.17.02.09.E states first-stage SWM concept must have "sufficient information for initial assessment of proposed project and whether SWM can be provided according to" COMAR & Design Manual. Also says this stage should have preliminary estimates of SWM requirements... and any other information required by the approving Agency." Rockville can't review the total SWM situation when there's gaps in the SWM coverage, and a lot of our plans will be redevelopment when we'll likely see some non-ESD SWM provisions.
22	Discussion of SWM alternatives and fee in lieu should be moved to the Development Concept Phase of review. Pg. 6	No change – see City's points above.
23	General Comment: all discussion of SWM alternatives and fee in lieu must make clear that MEP standard must be met. Pg. 8-9	RE: MDE's objection to reference under Art. II.Div. 2.C.(3) about simplified SWM Permit process for approved Concept based only on monetary contribution: City plans to keep this language to cover the very few situations where it might apply – an example is an existing commercial building installing an entrance awning and sign over an existing parking lot. Changed to add ESD to MEP, but also referenced new language added from COMAR's waiver section to bolster City's position that we need flexibility to use SWM alternatives. Because the City requires treatment of existing impervious areas that are not required by the State rules, such as existing adjacent streets or (in some cases) existing impervious areas outside of the LOD on redevelopment, the City expects that SWM alternatives will often be needed to handle these existing areas, as well as new/replacement impervious areas on infill and redevelopment sites. There's enough other references throughout the law AND the regulations that make it clear ESD to MEP will be demanded first and wherever feasible, but it will not cover EVERY eventuality. Rockville needs procedures for when the legitimate SWM alternatives apply, as are allowed under MDE's waiver policies.
24	Regs should make clear that fee in lieu for quality control is not available for new development. Pg. 9-10	See standards for approval of swm alternatives in sec. 19-61 and this part of the regulations. Also note that Rockville includes SWM requirements for existing adjacent street imperviousness even for new developments. More stringent standards, which we'll apply in accordance with MDE's ESD to MEP expectations. Again, Rockville needs to describe procedures for how monetary contributions are handled. The ESD to MEP decisions will be made before the final contributions are calculated.
25	Clarify that monetary contributions are only allowed after all ESD to the MEP is investigated. Pg. 11	Staff added language to Art. II. Div. 2 G. to clarify that monetary contributions are only allowed after all opportunities for ESD are implemented to the maximum extent practicable.
26	Predevelopment conditions have no impact on CPv. Pg. 12	Staff removed CPv from the list of calculations using predevelopment conditions.
27	Rockville's recharge requirements are no longer applicable under the new rules. Pg. 12-13	MDE directed COR to keep the WQv, Rev and CPv references in our law/regs for instances where no ESD is used and project reverts back to previous MDE standards using traditional onsite SWM methods (and computations).
28	Add sec. 8.2 from the model ordinance. Pg. 19	Staff added this language to the Regulations for Ch. 19 prior to introduction at Div. 3, Sec. F.
29	Regulations matrix of ESD practices	Changed – removed two center columns regarding "permitted applications in Rockville" and "SWM design restrictions".
30	Art. II.Div. 3.A.4 - Add COMAR 26.17.02.09.D regarding "flowage of water onto adjacent properties" Pg. 12	Staff added the suggested text with minor revisions to Ordinance Sec. 19-66(f) to better protect the City from liability for drainage issues.

Section II: Public Comments

Item #	Commenter	Comment	Final City Response
31	Barbra Sears, representing Avalon Bay Communities, Inc. owner of Site Plan Application No. STP2009	City should adopt the waiver provisions for infill development contained in the Emergency Regulations proposed by MDE on March 10, 2010.	Staff has adopted MDE's new regulations. Please see Attachment D, Chapter 19 Crosswalk, to see where the new provisions were implemented.
32	Annette Rosenblum, representing the Maryland National Capital Building Industry Association	Rockville should hold off on finalizing Proposal Ordinance since MDE is making changes.	See response above.

Note: this table describes the more substantial MDE comments and does not include formatting or other minor edits.